

production of fish and shellfish. Compliance for facilities who request that compliance be measured employing a Technology Installation and Operation Plan and/or Restoration Plan must be determined in accordance with § 125.98(b)(1)(iv).

(2) *Monitoring conditions.* You must require the facility to perform monitoring in accordance with the Technology Installation and Operation Plan in § 125.95(b)(4)(ii), the Restoration Plan required by § 125.95(b)(5), if applicable, and the Verification Monitoring Plan required by § 125.95(b)(7). In determining any additional applicable monitoring requirements in accordance with § 125.96, you must consider the monitoring facility's Verification Monitoring, Technology Installation and Operation, and/or Restoration Plans, as appropriate. You may modify the monitoring program based on changes in physical or biological conditions in the vicinity of the cooling water intake structure.

(3) *Recordkeeping and reporting.* At a minimum, the permit must require the facility to report and keep records specified in § 125.97.

(4) *Design and construction technology approval*—(i) For a facility that chooses to demonstrate that it has installed and properly operate and maintain a design and construction technology approved in accordance with § 125.99, the Director must review and approve the information submitted in the Technology Installation and Operation Plan in § 125.95(b)(4)(ii) and determine if it meets the criteria in § 125.99.

(ii) If a person requests approval of a technology under § 125.99(b), the Director must review and approve the information submitted and determine its suitability for widespread use at facilities with similar site conditions in its jurisdiction with minimal study. As the Director, you must evaluate the adequacy of the technology when installed in accordance with the required design criteria and site conditions to consistently meet the performance standards in § 125.94. You, as the Director, may only approve a technology following public notice and consideration of comment regarding such approval.

(5) *Bi-annual status report.* You must specify monitoring data and other in-

formation to be included in a status report every two years. The other information may include operation and maintenance records, summaries of adaptive management activities, or any other information that is relevant to determining compliance with the terms of the facility's Technology Operation and Installation Plan and/or Restoration Plan.

EFFECTIVE DATE NOTE: At 72 FR 37109, July 9, 2007, § 125.98 was suspended.

§ 125.99 What are approved design and construction technologies?

(a) The following technologies constitute approved design and construction technologies for purposes of § 125.94(a)(4):

(1) Submerged cylindrical wedge-wire screen technology, if you meet the following conditions:

(i) Your cooling water intake structure is located in a freshwater river or stream;

(ii) Your cooling water intake structure is situated such that sufficient ambient counter currents exist to promote cleaning of the screen face;

(iii) Your maximum through-screen design intake velocity is 0.5 ft/s or less;

(iv) The slot size is appropriate for the size of eggs, larvae, and juveniles of all fish and shellfish to be protected at the site; and

(v) Your entire main condenser cooling water flow is directed through the technology. Small flows totaling less than 2 MGD for auxiliary plant cooling uses are excluded from this provision.

(2) A technology that has been approved in accordance with the process described in paragraph (b) of this section.

(b) You or any other interested person may submit a request to the Director that a technology be approved in accordance with the compliance alternative in § 125.94(a)(4) after providing the public with notice and an opportunity to comment on the request for approval of the technology. If the Director approves the technology, it may be used by all facilities with similar site conditions under the Director's jurisdiction. Requests for approval of a technology must be submitted to the Director and include the following information:

§ 125.120

40 CFR Ch. I (7–1–13 Edition)

(1) A detailed description of the technology;

(2) A list of design criteria for the technology and site characteristics and conditions that each facility must have in order to ensure that the technology can consistently meet the appropriate impingement mortality and entrainment performance standards in § 125.94(b); and

(3) Information and data sufficient to demonstrate that facilities under the jurisdiction of the Director can meet the applicable impingement mortality and entrainment performance standards in § 125.94(b) if the applicable design criteria and site characteristics and conditions are present at the facility.

EFFECTIVE DATE NOTE: At 72 FR 37109, July 9, 2007, § 125.99 was suspended.

Subpart K [Reserved]

Subpart L—Criteria and Standards for Imposing Conditions for the Disposal of Sewage Sludge Under Section 405 of the Act [Reserved]

Subpart M—Ocean Discharge Criteria

SOURCE: 45 FR 65953, Oct. 3, 1980, unless otherwise noted.

§ 125.120 Scope and purpose.

This subpart establishes guidelines for issuance of National Pollutant Discharge Elimination System (NPDES) permits for the discharge of pollutants from a point source into the territorial seas, the contiguous zone, and the oceans.

§ 125.121 Definitions.

(a) *Irreparable harm* means significant undesirable effects occurring after the date of permit issuance which will not be reversed after cessation or modification of the discharge.

(b) *Marine environment* means that territorial seas, the contiguous zone and the oceans.

(c) *Mixing zone* means the zone extending from the sea's surface to seabed and extending laterally to a dis-

tance of 100 meters in all directions from the discharge point(s) or to the boundary of the zone of initial dilution as calculated by a plume model approved by the director, whichever is greater, unless the director determines that the more restrictive mixing zone or another definition of the mixing zone is more appropriate for a specific discharge.

(d) *No reasonable alternatives* means:

(1) No land-based disposal sites, discharge point(s) within internal waters, or approved ocean dumping sites within a reasonable distance of the site of the proposed discharge the use of which would not cause unwarranted economic impacts on the discharger, or, notwithstanding the availability of such sites,

(2) On-site disposal is environmentally preferable to other alternative means of disposal after consideration of:

(i) The relative environmental harm of disposal on-site, in disposal sites located on land, from discharge point(s) within internal waters, or in approved ocean dumping sites, and

(ii) The risk to the environment and human safety posed by the transportation of the pollutants.

(e) *Unreasonable degradation of the marine environment* means: (1) Significant adverse changes in ecosystem diversity, productivity and stability of the biological community within the area of discharge and surrounding biological communities,

(2) Threat to human health through direct exposure to pollutants or through consumption of exposed aquatic organisms, or

(3) Loss of esthetic, recreational, scientific or economic values which is unreasonable in relation to the benefit derived from the discharge.

§ 125.122 Determination of unreasonable degradation of the marine environment.

(a) The director shall determine whether a discharge will cause unreasonable degradation of the marine environment based on consideration of:

(1) The quantities, composition and potential for bioaccumulation or persistence of the pollutants to be discharged;